In the High Court of Punjab and Haryana, at Chandigarh.

Civil Writ Petition No. 19692 of 2008

Date of Decision: 26.10.2009

Prem Kumar

…Petitioner

Versus

State Information Commissioner, Haryana, and Others

…Respondents

CORAM: HON'BLE MR. JUSTICE KANWALJIT SINGH AHLUWALIA.

Present: Mr. Vikram Singh, Advocate
for the petitioner.

Mr. Sunil Nehra, Assistant Advocate
General, Haryana, for respondents No.1 to 3.

Mr. Saurabh Bajaj, Advocate
for respondent No.4.

Kanwaljit Singh Ahluwalia, J. (Oral)

Respondent No.4, on 1.7.2008, submitted an application to the Block Development and Panchayat Officer for seeking information under the Right to Information Act, 2005 (hereinafter referred to as "2005 Act"). that application was forwarded to the petitioner on 7.7.2008. The information being voluminous contained 2500 pages. Respondent No.4 was called upon to pay Rs.10/- per page for receiving information. Petitioner has relied upon Annexure P1 to say that he has incurred Rs.2,500/- towards photostat charges. Petitioner as a Sarpanch of

Gram Panchayat, Village Raja Kheri, has also informed vide Annexure P2 to respondent No.4 to pay amount i.e./ Rs.25,000/- for receiving information. Aggrieved against this, respondent No.4 had filed an appeal. In appeal, the Appellate Authority concluded that the petitioner-Sarpanch was not at fault. The information was to be supplied after deposit of requisite fee within seven days. Respondent No.4 being aggrieved approached the State Information Commissioner, Haryana, and his application was treated as a complaint under Section 18(2) of 2005 Act. The State Information Commissioner, Haryana, came to conclusion that the documents were required to be supplied within 15 days free of costs. A show cause notice was further issued to State Public Information Officer-cum-Block Development and Panchayat Officer, Panipat, and deemed State Public Information Officer-cum-Sarpanch to show cause as to why the penalty at rate of Rs.250/- per day for delay of each day, should not be imposed upon them.

Mr. Vikram Singh has stated that if for providing information expenses are to be incurred and the Authorities are well within their rights to prescribe rate for supply of each page of information.

In the present case, respondent No.4 has sought voluminous information running into 2500 pages. Therefore, they are well justified for calling upon respondent No.4 to deposit Rs.25,000/- charges for providing information as they had fixed Rs.10/- per page.

Mr. Sunil Nehra, Assistant Advocate General, Haryana, appearing for the State, has referred to Section 27 of 2005 Act which vest powers in the appropriate Government to make rules to carry out the provisions of the Act. Section 27 of 2005 Act vests power in the

appropriate Government to prescribe fee payable under Sub Section (1) to Section 6 of 2005 Act and fee payable under Sub Sections (1) and (5) to Section 7 of 2005 Act.

Mr. Nehra has referred to the Haryana Right to Information Rules, 2005 (hereinafter referred to as "2005 Rules"), determining the quantum of fee and read as under:-

5. Quantum of fee.

(1) An application for obtaining any information under sub-section (1) of section 6 shall be accompanied with a fee of Rs. 50.

(2) For providing an information under sub-section (1) of section 7, the fee shall be charged from the applicant at the following rates, namely:-

(a) Rs. 10 for each page in A-4 or A-3 size paper, created or copied; and

(b) If information is to be provided on a large size of paper than that of specified in clause (a), the actual cost price of such a paper shall be charged.

(3) For providing an information under sub-section (5) of section 7, the fee shall be charged from the applicant at the following rates, namely;

(a) Rs.50 for providing information in a floppy;

(b) Rs. 100 for providing information in diskette; and

(c) If information sought is of such a nature, which is contained in a printed document of which a price has been fixed, then that information shall be provided

after charging the price, fixed for that printed document.

(d) However, if only an extract or page of such a printed document is asked for, then a fee of Rs. 10 per page shall be charged.

(4) No fee for inspection of record shall be charged, if such an inspection is made for one hour only. However, if inspection is made for a period of more than one hour, then a fee of rupees ten shall be charged for every fifteen minutes in excess of first hour. Every fraction of the period above fifteen minutes, shall be construed as a complete period of fifteen minutes and it shall be charged as full period of fifteen minutes".

A reference to Section 27 of 2005 Act and Rule 5 of 2005 Rules, justify demand of Rs.25,000/- raised by the petitioner. Admittedly, respondent No.4 has not paid the amount, therefore, the order (Annexure P4) cannot be sustained and is liable to be set aside. However, taking into consideration larger perspective, respondent No.4 is permitted to inspect the records and thereafter can make a request for providing specific number of pages required by paying the requisite fee.

Mr. Nehra has stated that the inspection of the records shall be arranged by respondent No.2 in his office on 13.11.2009 at 10.00 A.M. Statement made by counsel for State should satisfy respondent/complainant.

With the observations made above, the present petition is disposed of.

(Kanwaljit Singh Ahluwalia)
Judge

October 26, 2009
"DK"